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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/754,460

01/09/2004

Martin Schock

HOE-793

8004

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7590

11/01/2007

Lipsitz & McAllister, LLC
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EXAMINER

RIGGLEMAN, JASON PAUL

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/754,460

Applicant(s)

SCHOCK, MARTIN

Examiner

Jason P. Riggelman

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Foreign reference</u> . |

DETAILED ACTION

Status of Claims

1. Applicant's amendment filed 8/17/2007 has been received. Current pending claims are 41-58. Claims 1-40 have been cancelled. Claims 25-58 are new.

Response to Arguments

2. Applicant's arguments filed 8/17/2007 have been fully considered. The applicant has provided a declaration which confirms that German Patent Application 40208286.9 was published within one year of the effective U.S. filing date of the instant application and was commonly owned at the time of the invention; therefore, this art no longer qualifies to the cancelled claim rejections.
3. In view of the amendment, the objections to the specification/abstract are withdrawn. Also, the previous 112, second paragraph, and 101 rejections are withdrawn due to cancellation of all previously examined claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 41-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tadaharu (JP Patent Publication No. JP2000-254087) in view of Wied (EPO Publication No. EP0768050).

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6. Tadaharu teaches dishwashing machine a drawer guide for a drawer in a chamber through which there is a flow of liquid, Figs. 7-10. A plurality of guide rails for the drawer guide is taught wherein one guide rail is associated with a drawer and the other to the chamber. A rolling member assembly is taught for guiding one of the guide rails in a displaceable manner on another guide rail in a direction of movement of the drawer. A rear rail portion is present on at least one of the guide rails and the rear rail portion includes at least one partial section that extends in a direction of movement of the drawer and is provided with fluid passages 15a and 16a in such a manner that a liquid or a gas present in the chamber is adapted to flow through the guide rail when the chamber is in use.

7. Tadaharu does not teach a cage is provided for the rolling members nor the specific details of a roller-type rail; however, Wied teaches these limitations, Figs. 2 & 7. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tadaharu with Wied to create a smoothly operating rail for the self-cleaning dishwashing rack movement means to achieve the expected result.

8. In regards to claims 42-49, these limitations, such as size of the fluid openings, as discussed in the specification – are determined by rudimentary experiments. It has been held that a change in cause effective variables is not patentable (*In re Woodruff*, 16 USPQ2d 1934). It would have obvious to one of ordinary skill in the art at the time of then invention to modify Tadaharu, as modified by Wied, to find the optimum hole size for a given rail/cage, etc. thickness.

Conclusion

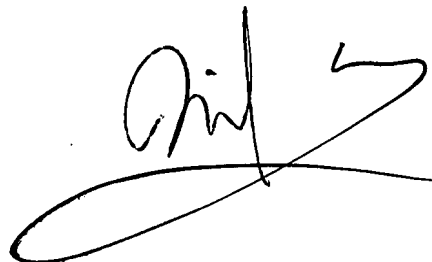
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Riggleman whose telephone number is 571-272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Riggleman
Examiner
Art Unit 1792

JPR

A handwritten signature in black ink, appearing to read 'Michael Barr', with a large, sweeping horizontal stroke underneath.

MICHAEL BARR
SUPERVISORY PATENT EXAMINER